



# County of San Diego

GARY W. ERBECK  
DIRECTOR

## SOLID WASTE LOCAL ENFORCEMENT AGENCY

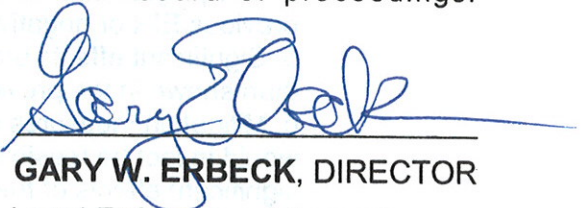
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JACK MILLER  
ASSISTANT DIRECTOR

### DECISION ON GREGORY CANYON LANDFILL 2009 ADDENDUM TO THE CERTIFIED FINAL ENVIRONMENTAL IMPACT REPORT

As the Director of the San Diego County Solid Waste Local Enforcement Agency (LEA) in the Department of Environmental Health, I am the decision maker for the Addendum to the Certified Revised Final Environmental Impact Report (2009 Addendum) and the Revised Final Environmental Impact Report (RFEIR) for the proposed Gregory Canyon Landfill. On January 7, 2010, I took the following actions:

1. I reviewed and considered the information in the 2009 Addendum, including all appendices. I also considered the information in the staff report provided by the County of San Diego Solid Waste Local Enforcement Agency dated January 7, 2010.
2. I determined that there were no substantial changes proposed in the project and there are no substantial changes in the circumstances under which the project will be undertaken that will require major revisions to the RFEIR on the Gregory Canyon Landfill; and determined that there is no "new information of substantial importance" as that term is used in California Environmental Quality Act (CEQA) Guidelines Section 15162(a)(3).
3. I adopted the 2009 Addendum to the RFEIR on the Gregory Canyon Landfill.
4. I adopted the finding that circulation of the 2009 Addendum is not required. (Attachment A)
5. I adopted the statement regarding the custodian of the record of proceedings. (Attachment B)



GARY W. ERBECK, DIRECTOR

Local Enforcement Agency

Date: 1/7/2010

Attachment A

**CIRCULATION OF THE 2009 WATER SUPPLY ADDENDUM TO THE REVISED FINAL EIR IS NOT REQUIRED**

**Finding:** Circulation of the 2009 Addendum to the Revised Final EIR is not required. CEQA and the CEQA Guidelines establish the type of environmental documentation that is required when changes to a project occur or new information arises after an EIR is certified. Section 15164(a) states that:

*“The lead agency or a responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred.”*

In order to give a degree of finality to EIR documentation, Section 15162 of the CEQA Guidelines requires that a Subsequent EIR need only be prepared if:

1. Substantial changes are proposed in the project which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
2. Substantial changes occur with respect to the circumstances under which the project is undertaken, which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete shows any of the following:
  - a. The project will have one or more significant effects not discussed in the previous EIR or negative declaration,
  - b. Significant effects previously examined will be substantially more severe than shown in the previous EIR,
  - c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative, or
  - d. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

The 2009 Water Supply Addendum evaluated the potential impacts of the landfill project using on-site sources of water and using recycled water from deliveries to the landfill site. The 2009 Water Supply Addendum considered whether any significant environmental impacts, which were not identified in the 2003 Draft EIR or the RFEIR, would result or whether previously identified significant impacts would be substantially more severe in light of that evaluation. It determined that none of the conditions requiring preparation of a Subsequent or Supplemental EIR have occurred. Thus, pursuant to CEQA, the 2009 Addendum is the appropriate document to address the potential impacts from the use of on-site water or recycled water from deliveries to the landfill site.

**Rationale:** The 2009 Water Supply Addendum adds no new significant information to the Revised Final EIR that demonstrates that a new significant environmental impact would result. No new significant information was added to the Revised Final EIR by the 2009 Water Supply Addendum that demonstrates that a substantial increase in severity of an environmental impact would result. No new significant information was added to the Revised Final EIR by the 2009 Addendum that demonstrates that there are feasible project alternatives or mitigation measures considerably different from others previously analyzed, or that there are alternatives or mitigation measures which would lessen significant impacts of the proposed landfill. Finally, the Revised Final EIR was not so fundamentally inadequate without this addendum that meaningful public review and comment on the Revised Final EIR were precluded.

The 2003 EIR and the Revised Partial Draft EIR were circulated for public review and comment, and a public hearing was held to take testimony on the Revised Partial Draft EIR and the proposed landfill. Thus, there has been substantial public review of the Revised Final EIR for the proposed landfill. No further public review of the Revised Final EIR, or the 2009 Water Supply Addendum, is required.

Attachment B

**STATEMENT OF LOCATION AND CUSTODIAN OF DOCUMENTS  
OR OTHER MATERIALS THAT CONSTITUTE THE RECORD OF PROCEEDINGS**

Project Name: Gregory Canyon Landfill

Reference Case Numbers: Environmental Record (ER) 98-02-025; SCH # 1995061007,  
Addendum #2

CEQA requires the lead agency (in this case, the County of San Diego Department of Environmental Health) to specify the location and custodian of the documents or other material that constitute the record of proceedings upon which its decision is based. (Public Resources Code section 21081.6(a)(2).) It is the purpose of this statement to satisfy this requirement.

Location of Documents and Other Materials That Constitute the Record of Proceedings:

County of San Diego, Department of Environmental Health  
Solid Waste Local Enforcement Agency  
9325 Hazard Way  
San Diego, California 92123

Custodian:

County of San Diego, Department of Environmental Health  
Solid Waste Local Enforcement Agency  
9325 Hazard Way  
San Diego, California 92123



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JACK MILLER  
ASSISTANT DIRECTOR

DATE: January 7, 2010

TO: Gary W. Erbeck  
Director, Department of Environmental Health

FROM: County of San Diego Solid Waste Local Enforcement Agency Staff

SUBJECT: GREGORY CANYON LANDFILL  
2009 ADDENDUM TO THE CERTIFIED FINAL ENVIRONMENTAL IMPACT REPORT

### OVERVIEW

This memorandum recommends that you: (1) adopt the 2009 Addendum to the Gregory Canyon Landfill Certified Revised Final Environmental Impact Report (referred to in the rest of this report as the 2009 Water Supply Addendum); (2) adopt the finding that circulation of the 2009 Water Supply Addendum is not required; and, (3) adopt the statement regarding the custodian of the record of proceedings.

On February 6, 2003, you certified a Final Environmental Impact Report (the 2003 FEIR) for the Gregory Canyon Landfill. The adequacy of the certified 2003 FEIR was subsequently challenged in a CEQA lawsuit, Riverwatch v. County of San Diego Department of Environmental Health et al, Case No. GIN038227. On January 20, 2006, the Court issued a final judgment and writ of mandate ordering decertification of the 2003 FEIR and requiring additional environmental review to address the three matters noted in the Court's order. The project proponent modified the project to rely on percolating ground water from on-site wells screened within the fractured bedrock zone and on imported recycled water, to incorporate additional biological mitigation, and to incorporate additional traffic mitigation.

The Solid Waste Local Enforcement Agency (LEA) conducted additional analysis and circulated a Revised Partial Draft EIR for comment in July and August of 2006. Over 1,000 separate comments were received from more than 150 persons and organizations. These comments, including a review of the March 28, 2007 Final Tribal Environmental Impact Report for the Pala Casino and Spa Expansion Project, were carefully considered. Revisions were made to the Revised Partial Draft EIR in response to these comments and to reflect additional review by LEA staff. The Revised Partial Draft EIR was provided to you with those revisions.

On April 30, 2007 a Staff Report and a proposed Revised Final EIR, incorporating the 2003 EIR, the Revised Partial Draft EIR, comments on and responses to comments on the Partial Draft EIR, and technical appendices, was submitted for your review. On May 31, 2007, you decided that the Revised Partial Draft EIR for the Gregory Canyon Landfill with associated comments and responses to comments had met the direction of the Court, and you certified the Revised Final EIR. The County and the project proponent returned to Court and proposed that the writ of mandate had been satisfied.

## Gregory Canyon 2009 Water Supply Addendum

On February 11, 2008, the Court issued a further decision and order (See Appendix A to the Recycled Water Addendum). This decision upheld the additional environmental analysis included in the Revised Final EIR for the proposed Gregory Canyon Landfill related to traffic and biological mitigation. The environmental analysis for the water supply (related to the use of recycled water) was found to be incomplete. The decision required an assessment of the environmental impacts, if any, associated with the project's proposed use of the recycled water provided under the Olivenhain Municipal Water District (OMWD) contract. The court specified that this assessment should include an analysis of the baseline conditions pertaining to OMWD's use of recycled water and the impacts, if any, on the existing uses of OMWD's recycled water. The Court also indicated that the environmental review should provide a "meaningful discussion of the potential impacts of the OMWD contract on existing customers or existing uses of the recycled water."

In response to the Court's order, the project proponent and LEA staff did additional analysis. Baseline recycled water supply and use conditions were determined, and scenarios that added the Gregory Canyon Landfill to that baseline were defined and quantified. The impacts from recycled water deliveries to the landfill site on other OMWD recycled water customers were then determined, as required by the Court's order. The additional analysis evaluated under CEQA resulted in a Recycled Water Addendum being prepared.

On August 8, 2008 you issued a decision adopting the Recycled Water Addendum which concluded that there is adequate recycled water to meet the demands of OMWD's existing customers or existing uses of recycled water after including deliveries to the landfill site, and that OMWD is able to provide 193 acre feet per year (AFY) of recycled water to the landfill site without causing a significant impact to its existing customers or existing uses of recycled water. Based on the information presented in the Recycled Water Addendum, no significant environmental impacts that were not identified in the 2003 FEIR or the Revised FEIR would result, and no previously identified significant impacts would be substantially more severe in light of this analysis.

### **ADDITIONAL ANALYSIS**

On January 9, 2009, the Court of Appeal determined that Olivenhain Municipal Water District (OMWD) had violated its CEQA duties as a responsible agency when it approved the recycled water agreement with Gregory Canyon Ltd., (Gregory Canyon), and ordered OMWD to set aside the agreement. A copy of the Court of Appeal's opinion is included as Appendix A to the 2009 Water Supply Addendum. On July 9, 2009, the San Diego County Superior Court entered a writ of mandate against OMWD. A copy of the trial court order is included as Appendix B to the 2009 Water Supply Addendum.

On July 21, 2009, OMWD filed a return to the writ of mandate, and informed the court that OMWD had set aside and voided its approval and execution of the recycled water agreement. As stated therein, OMWD decided that it would not consider any new agreement with Gregory Canyon for the sale of recycled water. A copy of OMWD's return to writ is included as Appendix C of the 2009 Water Supply Addendum. The OMWD decision made changes to the landfill project necessary. Additional analysis of the potential for those changes to cause new or increased environmental impacts was required under CEQA.

### **RESULTS OF ANALYSIS**

The 2009 Water Supply Addendum was prepared to respond to these events by conducting an updated review of the Project's water demands, and identifying sources of water to satisfy that demand. The 2009 Water Supply Addendum has been prepared with consideration of the 2003 Draft EIR, the RFEIR, and the 2008 Addendum.

## Gregory Canyon 2009 Water Supply Addendum

The additional analysis performed as part of the 2009 Water Supply Addendum showed that no significant impacts would result, which means a supplemental or subsequent EIR cannot be required. CEQA does not require that addendums to certified EIRs be circulated for public comment.

### **STAFF RECOMMENDATIONS**

1. Adopt the 2009 Addendum to the Gregory Canyon Landfill Certified Revised Final Environmental Impact Report (2009 Water Supply Addendum.).
2. Adopt the finding that circulation of the 2009 Water Supply Addendum is not required.
3. Adopt the statement regarding the custodian of the record of proceedings.

